IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.33410 of 2007
SONI KUMARI @ SONU KUMAR
Versus
STATE OF BIHAR
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5. 9.7.2008 The present petition arises out of Hilsa P.S.Case No. 127 of 2007 under Section 304B of the Indian Penal Code. The petitioner Soni Kumari alias Sonu Kumar is the younger brother of the husband of the deceased and has raised the plea of being a juvenile. The Court takes a view that there is full-fledged law in vogue vide Juvenile Justice (Care And Protection Of Children) Act, 2000 and there is complete bar on apprehending the petitioner by the general police. Not only that, on being apprehended such a juvenile, who could be in conflict with the law, like, the petitioner could not be produced before the ordinary courts, rather, he has to be produced before a Magistrate specifically empowered in hat behalf or a Juvenile Board. There has to be special police force for investigating such cases in which a juvenile is apprehended in conflict with the law.

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Section 5 of the Code of Criminal Procedure bars the entertainment of any proceedings if there is a special law creating

special jurisdiction and procedure for special class of offenders. As indicated above, the aforesaid Juvenile Justice(Care and Protection of Children) Act, 2000 is a special law which contains a special procedure to deal with a juvenile in conflict with law including the provision of law.

However, as the petitioner may be apprehending his arrest, as such, it is advisable that as and when he appears before the Magistrate or the Juvenile Board, he should be granted provisional bail, and such court or Board, if it so desires, may hold an enquiry on the question of juvenility of the petitioner as provided by Section 49 of the above noted Juvenile Justice Act. As soon as the enquiry is over and a final verdict is given on the claim of the petitioner of being a juvenile, the law shall take its own course.

The petition is disposed of in the above light with the above observation.

(Dharnidhar Jha, J.)

Kanth

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